



U.S. Department of Justice

*United States Attorney
Southern District of New York*

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March 24, 2022

By ECF

Honorable Andrew L. Carter, Jr.
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *State of New York, et al. v. Regan, et al.*, No. 21 Civ. 252 (ALC)

Dear Judge Carter:

This Office represents the defendants, the United States Environmental Protection Agency, and its Administrator, Michael S. Regan, in his official capacity (together, the "EPA"), in this action. I write to provide an update on EPA's compliance with the provisions of the consent decree entered on November 15, 2021, ECF No. 38.

Paragraphs 3 and 4 of the consent decree provide two sets of deadlines that may govern EPA's actions in this matter regarding certain state implementation plans (SIPs). Specifically, paragraph 4 provides that, notwithstanding the deadlines set by paragraph 3,

[F]or each SIP submission in Paragraph 3 for which EPA signs by February 28, 2022 for publication in the Federal Register (i) a proposal of full or partial disapproval, and (ii) a proposed federal implementation plan to implement any such fully or partially disapproved SIP submission pursuant to section 110(c) of the CAA, 42 U.S.C. § 7410(c), EPA shall have until December 15, 2022, to sign a final action to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, each such SIP submission pursuant to sections 110(k)(2)-(4) of the CAA, 42 U.S.C. §§ 7410(k)(2)-(4).

ECF No. 38 ¶ 4. We now confirm that the government has taken the actions necessary under paragraph 4 to qualify for the December 15, 2022 deadline for all six SIP submissions.

Specifically, by February 28, 2022, EPA signed proposed disapprovals of the good neighbor SIP submissions for the 2015 ozone National Ambient Air Quality Standards from the States of Indiana, Kentucky, Michigan, Ohio, Texas, and West Virginia. 87 Fed. Reg. 9838 (Feb. 22, 2022) (Indiana, Michigan, and Ohio); 87 Fed. Reg. 9498 (Feb. 22, 2022) (Kentucky); 87 Fed. Reg. 9798 (Texas); 87 Fed. Reg. 9516 (Feb. 22, 2022) (West Virginia).

And on February 28, 2022, EPA signed “Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard” available at https://www.epa.gov/system/files/documents/2022-03/nprm_transport-fip_2060-av5_prepublication.pdf (not yet published in the *Federal Register*). The proposed rule contains proposed good neighbor federal implementation plans for the states of Indiana, Kentucky, Michigan, Ohio, Texas, and West Virginia.

We thank the Court for its attention to this matter.

Respectfully,

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cc: All counsel of record (by ECF)